

APPENDIX A

A **PROPOSED STIPULATION AND ORDER** following the format shown below must be jointly prepared and electronically filed by counsel at least **three (3) days** prior to the date of the final pretrial conference. Specific reference is made here to the terms of the **TRIAL ORDER** that shall be read and applied in conjunction with the format below.

IN THE UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

JOHN DOE,)	CASE NO. 0:00-CV-0000
)	
Plaintiff,)	
)	
v.)	Judge James S. Gwin
)	
JANE DOE,)	
)	STIPULATION & ORDER
Defendant.)	

FINAL PRETRIAL ORDER

This action came before the Court at a final pretrial conference held on the ____ day of _____, 19__, pursuant to Rule 16 of the Federal Rules of Civil Procedure.

I. APPEARANCES:

For Plaintiff(s):

For Defendant(s):

II. NATURE OF ACTION AND JURISDICTION:

A. This is an action for_____.

B. The jurisdiction of the Court is invoked under Title ___, United States Code, Section _____.

C. The jurisdiction of the Court is (**disputed/undisputed**).

III. TRIAL INFORMATION:

A. The estimated length of trial is ____ days.

B. Trial to (**the Court/Jury**) is set for (**MM/DD/YYYY**).

IV. AGREED STATEMENTS AND LISTS

A. General Nature of the Claims of the Parties

(1) Plaintiff Claims: (*e.g.*, “Plaintiff asserts in Count 1 a right of recovery for defendant's negligence as follows.”)

(2) Defendant Claims: (*e.g.*, “Defendant denies liability as asserted in counts ___ for the following reasons.”- **or** - “Defendant as an affirmative defense asserts that plaintiff was contributorily negligent as follows: . . .”).

B. Uncontroverted Facts

Suggested Language:

“The following facts are established by admissions in the pleadings or by stipulations of counsel . . .” (set forth and number uncontroverted or uncontested facts).

C. Issues of Fact and Law

Suggested Language:

(1) “Contested Issues of Fact: The contested issues of fact remaining for decision are . . .” (list them).

(2) “Contested Issues of Law: The contested issues of law in addition to those implicit in the foregoing issues of fact are: . . .” (set forth). **OR**

"There are no special issues of law reserved other than those implicit in the foregoing issues of fact."

D. Witnesses

Suggested Language:

witness (1) "Plaintiff/defendant will call or will have available for testimony at trial those witnesses whose names are set forth on the attached list" (see Appendix C).

E. Expert Witnesses

Suggested Language:

(1) "Parties are limited to the following number of expert witnesses, including treating physicians, whose names have been disclosed to opposing counsel:"

F. Trial to the Court

Parties must file a statement of the issues, proposed findings of fact, and proposed conclusions of law in accordance with the time limits set forth in the trial order. Parties must also file any trial briefs in accordance with the time limits set forth in the trial order.

G. Trial to a Jury

Proposed voir dire questions and proposed jury instructions **must** be submitted to the Court in accordance with the time limits set forth in the trial order.

H. Use of Depositions

Suggested Language:

(1) "Testimony of the following witnesses will be offered by deposition/video tapes: . . ." **OR** "No testimony will be offered by deposition/video tape."

I. Exhibits

The parties will offer as exhibits those items listed herein as follows:

- (1) Joint Exhibits - Appendix B (Use Roman Numerals).
- (2) Plaintiff Exhibits - Appendix B (Use Arabic Numerals).
- (3) Defendant Exhibits - Appendix B (Use Letters)
- (4) Third-Party Exhibits - Appendix B (Use Letters Prefixed by Initial of Party).

J. Pending Motions

Suggested Language:

- (1) “The following motions are pending at this time: . . .” **OR** “There are no pending motions at this time.”

K. Modification of Order

Suggested Language:

- (1) “This final pretrial order may be modified at the trial of this action, or prior thereto, to prevent manifest injustice. Such modification may be made by application of counsel, or on motion of the Court.”

L. Settlement Efforts

Set forth exact status of settlement discussions between the parties.

IT IS SO ORDERED.

JUDGE JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

Counsel for:

Counsel for:

APPENDIX B

An **EXHIBIT LIST** following the format shown below, along with a copy of all exhibits, must be prepared and submitted by counsel on **the morning the trial actually commences**. Specific reference is made here to the terms of the **TRIAL ORDER** that shall be read and applied in conjunction with the format below.

DEFENDANT

[illegible]

APPENDIX C

A **WITNESS LIST** following the format shown below, along with a copy of all exhibits, must be prepared and submitted by counsel along with the final pre-trial order **three (3) days** prior to the final pre-trial conference. Specific reference is made here to the terms of the **TRIAL ORDER** that shall be read and applied in conjunction with the format below.

CASE NO. _____

JUDGE JAMES S. GWIN

[illegible]